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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,416	03/01/2004	Michael Hormann	298-236	5395
28249	7590	06/07/2006		
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			EXAMINER PRESTON, ERIK D	
			ART UNIT 2834	PAPER NUMBER

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/791,416	HORMANN, MICHAEL	
	Examiner Erik D. Preston	Art Unit 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 April 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10, 12, 14-16, 18, 20-23 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10, 12, 14-16, 18, 20-23 and 25-28 is/are rejected.
- 7) Claim(s) 29 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/5/2006 has been entered.

### ***Claim Objections***

Claim 27 is objected to because of the following informalities: In the 14<sup>th</sup> line of the claim, the phrase "...over the edge..." lacks proper antecedent basis and, for examination purposes, will be interpreted as saying "...over an edge..." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-10,12,14-16,18,20-23 & 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiser et al (US 5936842 previously presented) in view of Buchele (GB 2069767 previously presented) in view of Iha et al. (US 4653565 previously cited).

With respect to claim 1, Kaiser teaches a door drive housing, comprising: comprising: A shell-shaped basic carrying body (Fig. 1, #12) structured and arranged to

have different drive components (Fig. 2, #16,18,22,24 & 26) secured thereto (as seen in Figure 1), a cover hood (Fig. 1, #14) structured and arranged to be connected to the basic carrying body, a first accommodation means (Fig 2, #46) for a drive motor (Fig. 1, #16), a second accommodation means (Fig. 2, #114) for a drive system (Fig. 1, #18), and a third accommodation means (Fig. 2, #70) for a control device (Fig. 1, #24), but it does not teach a housing extension structured and arranged to be connected in an exact fit and detachable manner to the basic body on front rear and lateral sides thereof and accommodate additional and/or larger drive components or said first through third accommodation means being recesses separated from one another by elevated securing flanges and said housing extension also comprising at least one recess for accommodating more and/or larger drive components. However, Buchele teaches a housing extension (as seen in Fig. 1) structured and arranged to be connected in an exact fit and detachable manner to a basic body (Fig. 1, #1) on front rear and lateral sides thereof and accommodate additional and/or larger components (as seen in Fig. 1) said housing extension also comprising at least one recess (as can be seen in Fig. 1, each section of the housing extension comprises a recessed base surrounded by an outer wall) for accommodating more and/or larger drive components, and Iha teaches recesses (best seen in Fig. 5) in the housing (Fig. 2, #71) of a garage door drive for attaching drive components therein, said recesses being separated from one another by elevated securing flanges (Fig 5, #301 & 301). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the housing of Kaiser in view of the teaching of an extendable housing as taught by Buchele because it provides

a modular housing for electrical components that can be assembled in any desired size (Buchele, Abstract), and to modify the housing of Kaiser in view of the recesses or Iha because they provides a means for simplifying the installation and manufacturing of a door drive housing (Iha, Col. 1, Line 61-Col. 2, Line 9).

With respect to claim 2, Kaiser in view of Buchele in view of Iha teaches the housing of claim 1, and Buchele teaches that the housing extension comprises a carrying body extension (Fig. 1, #1) structured and arranged to be connected in a releasable manner to the basic carrying body, and a cover body (Fig. 1, #5) structured and arranged to be connected at least to the carrying body extension.

With respect to claims 3 & 4, Kaiser in view of Buchele in view of Iha teaches the housing of claim 2, and Buchele teaches that the cover hood of the housing extension extends over both the basic carrying body as well as over the carrying body extension connected to this and delimits a common interior (as seen in Fig. 1), and that the cover hood of the housing extension either connects in an exact fit to the cover hood located on the basic carrying body, or only covers the carrying body extension connected to the basic carrying body (Page 1, Lines 16-35).

With respect to claims 5,14 & 15, Kaiser in view of Buchele in view of Iha teaches the housing of claims 1-4, and Buchele teaches that the carrying body extension comprises a connection contour (as seen in Fig. 9) structured and arranged to be connected seamlessly to an outer contour of the basic carrying body, and with the basic carrying body together forms an extended carrying shell.

With respect to claim 6, Kaiser in view of Buchele in view of Iha teaches the housing of claim 1, and Buchele teaches that a carrying body extension forms a ring (or any other desired shape), which can be located with its interior contour at the outer contour of the basic carrying body.

With respect to claim 7, Kaiser in view of Buchele in view of Iha teaches the housing of claim 2, and Buchele teaches that a carrying body extension comprises positive-fit connection means to be secured to the basic carrying body.

With respect to claim 8, Kaiser in view of Buchele in view of Iha teaches the housing of claim 2, and Buchele teaches a carrying body extension is constituted by several parts structured and arranged to be connected in a releasable manner to one another and the basic carrying body.

With respect to claim 9, Kaiser in view of Buchele in view of Iha teaches the housing of claim 8, and Buchele teaches that said parts have first and second positive-fit connection means for positive-fit connection to one another and second positive-fit connection means for positive-fit securing to the basic carrying body (as seen in Fig. 9).

With respect to claim 10, Kaiser in view of Buchele in view of Iha teaches the housing of claim 2, and Buchele teaches that the carrying body extension comprises a securing flange on its inner contour, engaging over the edge of the basic carrying body.

With respect to claim 12, Kaiser in view of Buchele in view of Iha teaches the housing of claim 1, and Kaiser teaches that the carrying body has on its outside a positive-fit connection means (Fig. 1, #112) for connecting to a slide element rail (Fig. 1, #28) mounted on which in an axially movable manner is a door drive slide element

(which is not explicitly disclosed in the text, but inherently exists in all door opening drives) which can be driven by a drive chain that is engaged by a chain pinion (Fig. 1, #20).

With respect to claims 16,18 & 20, Kaiser in view of Buchele in view of Iha teaches the housing of claims 4,6 & 15, and Buchele teaches that the carrying body extension is constituted by several parts having first positive-fit connection means for positive fit connection to one another, and including locking engagement tongues and complimentary locking arrangement recesses for locking engagement recesses for locking engagement with one another and second positive-fit connection means for positive-fit securing to the basic carrying body.

With respect to claim 21, Kaiser in view of Buchele in view of Iha teaches the housing of claim 5, and Buchele teaches that said shell comprises a circumferential edge web structured and arranged to receive the cover hood of the housing extension (as seen in Figs. 1 & 2).

With respect to claim 22, Kaiser in view of Buchele in view of Iha teaches the housing of claim 9, and Buchele teaches that the first positive-fit connection means comprises locking engagement tongues and complimentary locking engagement recesses for locking engagement with one another (as seen in Fig. 9).

With respect to claim 23, Kaiser in view of Buchele in view of Iha teaches the housing of claim 10, and Buchele teaches that said securing flange is bent at a right angle (as seen in Fig. 9).

With respect to claim 27, Kaiser in view of Buchele in view of Iha teaches the housing of claim 2, and Buchele teaches that the carrying body extension comprises a connection contour structured and arranged to be connected seamlessly to an outer contour of the basic carrying body and, with the basic carrying body, together forms an extended carrying shell, the carrying body extension comprises parts structured and arranged to be releasably coupled to at least one of one another and the basic carrying body and having first positive fit connection means for positive fit connection to one another and second positive-fit connection means for positive-fit securing to the basic carrying body (as seen in Fig. 1), the carrying body extension comprises a securing flange on its inner contour, engaging over an edge of the basic carrying body (as seen in Fig. 9), and the first positive-fit connection means comprise locking engagement tongues and complimentary locking engagement recesses for locking engagement with one another (as seen in Fig. 9).

With respect to claims 25,26 & 28, Kaiser in view of Buchele in view of Iha teaches the housing of claims 6,8 & 27, and Buchele teaches that carrying body extension is constituted by four distinct parts structured and arranged to be connected in a releasable manner to one another and the basic carrying body, a front face part, a rear face part and two lateral parts, said front face and rear face parts each comprising a recess for accommodating more and/or larger drive components. If it were desirable to one of ordinary skill in the art to form a ring from the carrying body extension parts (such as is recited in claim 6), it would have been obvious to one of ordinary skill in the art to form this ring from four distinct parts, one on each side of the basic carrying body

because it has been held that changing the position of an element of an invention is prima facie obvious in the absence of new or unexpected results (*In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950)).

***Allowable Subject Matter***

Claim 29 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: While prior art may teach some of the material included in the claim, it does not teach the combination comprising at least one mounting claw situated on an inner surface of said front and read end parts and arranged to receive and grip a respective overlapping part upon coupling, to provide additional stability and rigidity.

***Response to Arguments***

Applicant's arguments with respect to claims 1-10,12,14-16,18,20-23 & 25-29 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 2002/0164158

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erik D. Preston whose telephone number is (571)272-8393. The examiner can normally be reached on Monday through Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on (571)272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



05/23/2006

